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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,519	10/30/2003	David B. Young	1092-025US01 (1778US01)	7657
28863	7590	12/08/2008	EXAMINER	
SHUMAKER & SIEFFERT, P. A. 1625 RADIO DRIVE SUITE 300 WOODBURY, MN 55125			ANDERSON, FOLASHADE	
			ART UNIT	PAPER NUMBER
			3623	
			NOTIFICATION DATE	DELIVERY MODE
			12/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pairedocketing@ssiplaw.com

Office Action Summary	Application No. 10/697,519	Applicant(s) YOUNG ET AL.	
	Examiner FOLASHADE ANDERSON	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/24/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13,15-36,38-47 and 49-66 is/are pending in the application.
- 4a) Of the above claim(s) 23-34 and 56-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-13, 15-22, 35, 36, 38-47 and 49-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the second non-final office action in response to Applicant's submission filed 09/24/2008. Currently, claims 1, 2, 4-13, 15-36, 38-47 and 49-66 are pending. Claims 23-34 and 56-66 have been withdrawn from consideration. Claims 3, 14, 37, and 48 are canceled. Claims 1, 2, 4-13, 15-22, 35, 36, 38-47 and 49-55 are amended.

Response to Arguments

2. Applicant's arguments with respect to claim 1 and 12 which are directed toward newly added amendments, which have been fully addressed in the updated rejections below.

3. Applicant's arguments, see page 14 of the remarks, with respect to the rejection(s) of claim(s) 3 (currently rolled into amended claim 1) under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Unifirst (www.unifirst.com, published 01/21/2002).

4. It is noted that the applicant did not challenge the officially cited facts in the previous office action(s) therefore those statements as presented are herein after prior art. Specifically it has been established that it was old and well known in the art at the time of the invention that:

- a delivery route contain multiple drop off and pick up locations (stops) that corresponds to with multiple establishments, see claims 7 and 18

Claim Rejections - 35 USC § 101

5. Claims 1, 2, 4-13 and 15-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

With respect to independent claims 1 and 12, the claim language recites the steps of collecting the set of restaurant wares, identifying each of the sets of restaurant wares, cleaning the set of restaurant wares, delivering the set of restaurant wares, etc., however the claim language does not include the required tie or transformation.

Claims 2, 4-11, 13, and 15-22 are rejected based upon the same rationale, wherein the claim language does not include the required tie or transformation.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 4-13, 15-22, 35, 36, 38-47, and 49-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pure & Natural Diaper Service (www.seattlediaper.com, published 02/02/2002) wherein referred to as Pure in view of Byrd (Free home delivery of dry cleaning available former truck driver now stays on the move with innovative clothes-cleaning service, published 06/26/2000).

Pure teaches in regards to claim 1 **a method of cleaning wares of a plurality of establishments, wherein the ware comprise restaurant wares each of the plurality of establishments having a location and a set of restaurant wares, comprising:**

- **collecting the set of restaurant wares from each of the plurality of establishments** (pg. 3, see diaper pick up and delivery section, where the Examiner interrupts diapers as a type of restaurant wares);
- **delivering the set of restaurant wares, following the cleaning step, to each respective one of the plurality of establishments** (pg. 4, see diaper count section) **in accordance with the identification.**

Pure teaches that the diapers delivered are laundered and sanitized (pg. 10) and after the first two weeks of service the customer is delivered the same number of clean items as returned spoiled items (pg. 4). While Pure does not expressly teach **cleaning the set of restaurant wares from all of the plurality of establishments following the collecting step** this step is obviously implied in the analogous environment of the cotton diapers business.

Additionally Pure teaches **identifying the set of restaurant wares** (pg. 3 labeling of bag containing the diaper with the customer's last name to incorporate the step of identifying) for each customer however Pure is a diaper rental company therefore Pure does not expressly teach that the **wares as belonging** to the customers.

Byrd teaches **wares as belonging** in an analogous art in which labeling process, similar to Pure's is used to identify the belonging of indivisible customers. (pg. 1, paragraph 8 "provide customers with dry-cleaning bags with personalized tags").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Pure the step of identifying wares owned by a customer as taught by Byrd since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

The Examiner notes that Applicant has amended the claims to include the term "restaurant wares" as described by way of example "wares such as eating utensils, plates, pots . . .utilized in the industry which need to be cleaned," see [0002] of the instant application. The use of "such as" does not limit the wares to the types listed in the specification as such it is old and well known that restaurants use additional wares such as napkins and tablecloths for which the cleaning process is almost if not exactly the same as that of cloth diapers. Therefore the process step of Pure are analogous to those of the instant application even though the goods processed are different the

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process steps are material the same. Therefore no patentable weight was been given to "restaurant ware" the term is viewed as non-functional descriptive material that are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP*, 2106.

In regards to claim 2 Pure teaches **wherein each set of restaurant wares for each of the plurality of establishments are distinct** (pg. 5, where the diaper size implies a distinction in the restaurant wares type).

In regards to claims 4 and 15 Pure teaches **cleaning the set of restaurant wares comprises cleaning the set of restaurant wares** (pg. 10); but silent on **cleaning step is accomplished at a centralized location**. It is irrelevant to the essence of the invention whether this step is preformed at a centralized or a distributed among multiple locations since the item is cleaned by Pure. However it is respectfully submitted the number of locations does not impact the method or the manner in which the method is performed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a centralized location to minimize operating cost associated with multiple pick up and delivery locations in the cleaning step.

In regards to claims 5, 6, 16 and 17 Pure teaches **collecting (delivering) comprises collecting (delivering) each set of restaurant wares regularly** (pg. 3, see diaper pick up and delivery section, where the Examiner understands that the step of collecting and delivering are done on the same time schedule).

In regards to claims 7, 8, 18 and 19 Pure teach a route (pg. 3, see diaper pick up and delivery section).

Pure is silent on the **collecting the set of restaurant wares comprises collecting the set of restaurant wares along a route having a plurality of stops, each plurality of stops corresponding to each of the plurality of establishments; and wherein delivering the set of restaurant wares comprises delivering the set of restaurant wares along the route.**

Official notice is taken that is was old and well known in the art at the time the invention was made that a delivery route contain multiple drop off and pick up locations (stops) that corresponds to with multiple establishments.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the invention was made to use the old and well known technique of multiple stops in the disclosure of Pure to optimize resources in the step of pick up and delivery.

Claims 8 and 19 are substantially similar to claims 7 and 18 respectively and are therefore rejected for the same reason given above with regards to those claims.

In regards to claims 9 and 20 Pure teaches **the step of charging each of the plurality of establishments an amount based at least partially on an amount of**

restaurant wares in the set of restaurant wares cleaned. (pg. 4, see, diaper count where the fee is all encompassing and thus the fee to include the charge of cleaning and pg. 8, see second full paragraph).

In regards to claims 10 and 21 Pure teaches **comprising delivering cleaning supplies to at least one of the plurality of establishments** (pg. 5, see deodorizing).

In regards to claims 11 and 22 Pure teaches **wherein delivering cleaning supplies comprises delivering cleaning supplies along with delivering the set of restaurant wares during a single stop for at least one of the plurality of establishments** (pg. 3, see diaper pick up and delivery).

In regards to claims 12 which is substantially similar to claims 1 and 2 therefore is rejected for the same reason give above with regards to these claims. Additional claim 12 recites the limitation of **maintaining an inventory of an additional set of the distinct set of restaurant wares of each of the plurality of establishments.** Pure teaches this limitation on (pg. 4, section diaper count) where the examiner understands inventory to mean replacement stock and the customer is supplied with enough diapers so that even as the soiled one are returned for cleaning he maintains the same weekly quantity (inventory) in accordance with his order.

In regards to claims 13 Pure teaches **the step of maintaining another additional set of distinct restaurant wares for each of the plurality of establishments** (pg. 4, section diaper count)

Pure does not expressly teach that the additional restaurant wares are **for use as a safety stock.** However the aforementioned limitation is a statement of intended

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use. As per MPEP 7.37.09: a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim

In regards to claims 35, 36, 38-47, and 49-55 which are directed towards the systems for implementing the methods of claims 1, 2, 4-13, and 15-22 are substantially similar to and implied in claims 1, 2, 4-13, and 15-22. Therefore claims 35, 36, 38-47, and 49-55 are rejected for substantially the same reasons given above with regards to claims 1, 2, 4-13, and 15-22.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DeMaster et al (2007/0282704 A1) discloses a method and system for delivering and pick service. Hale (Dry Cleaners come knocking as sour economy takes its toll, published 12/21/2002) teaches the collection, cleaning and delivery process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FOLASHADE ANDERSON whose telephone number is (571)270-3331. The examiner can normally be reached on Monday through Thursday 8:00 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Folashade Anderson/

Examiner, Art Unit 3623

/Andre Boyce/

Primary Examiner, Art Unit 3623

